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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,441	01/27/2004	Minoru Kihara	248067US	8701

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

NOTIFICATION DATE	DELIVERY MODE
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09/28/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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jgardner@oblon.com

Office Action Summary

Application No.

10/764,441

Applicant(s)

KIHARA, MINORU

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,702,621 to Stelljes in view of U.S. Pat. Application Publication No. 2003/0090114 to Kang.

Stelljes '621 discloses Applicant's claim limitations including : an "engaging piece" – 15, "fixed on a lid" – 11,10 as shown in Fig 1, a "latch mechanism" – particularly including 26, "fixed on a main body portion of the bag" – 14,10. Stelljes '621 doesn't disclose ring portion 15 to be "clad with a synthetic resin" but Kang '114 discloses it is well known in the art of latches to do so. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide part 15 of Stelljes '621 with a synthetic resin coating as taught by Kang '114 for noise damping as suggested by Kang '114.

As regards claim 19, it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the top surface of 26 to be metal to ensure good strength where examiner takes Official Notice that it is well known in the art to form latch portions from metal. It has been held to be

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within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

3. Claims 11, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,590,400 to Widmer in view of U.S. Pat. Application Publication No. 2003/0090114 to Kang.

Widmer '400 discloses Applicant's claim limitations including : an "engaging piece" – including 5, "fixed on a lid" – as shown in Fig 1, a "latch mechanism" – particularly including 9, "fixed on a main body portion of the bag" – as shown. Widmer '400 doesn't disclose ring portion 9 to be "clad with a synthetic resin" but Kang '114 discloses it is well known in the art of latches to do so. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide part 15 of Stelljes '621 with a synthetic resin coating as taught by Kang '114 for noise damping as suggested by Kang '114.

As regards claim 19, it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the top surface of 5 to be metal to ensure good strength where examiner takes Official Notice that it is well known in the art to form latch portions from metal. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response to Arguments

4. Applicant's arguments filed 8/20/07 have been fully considered but they are not persuasive.

Applicant argument that proposed modification is inferred from the present application is not persuasive since the actual grounds of rejection relies only upon prior art known to one of ordinary skill in the art prior to present application (see grounds of rejection above). Argument that prior art does not provide motivation is not persuasive where prior art discloses that providing latch elements with resin coating is well known in the art for purpose of noise damping.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

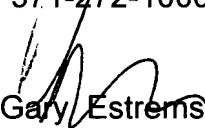
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on T,W,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on 571 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gary Estremsky
Primary Examiner
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